

Remarks

Interview

A telephone interview was conducted with Examiners Michael Priddy and Edwardo Robert during which the September 12, 2007 Office Action was discussed.

During the interview, it was suggested to the Examiners that the “translaminar fixation mechanism” claim limitation requires that the fixation mechanism for securing the inferior implant to the inferior articular facet must be capable of traversing the lamina connected to the inferior articular facet. The Examiners explained that they did not consider the word “translaminar” to impart a structural limitation, but instead, was merely a recitation of intended use.

Applicant does not dispute the Examiners’ position with respect to the “translaminar” language. In light of the Examiner’s position, new dependent claims 59-62 have been added. Claims 59 and 61 include the requirement that the translaminar fixation mechanism be “configured to traverse a lamina connected to the inferior articular facet.” Claims 60 and 62 include the requirement that the inferior implant be “configured to engage a translaminar fixation mechanism that traverses a lamina connected to the inferior articular facet.”

Also during the interview, it was suggested to the Examiners that implants in Soboleski cited by the Examiners in the September 12, 2007 Office Action (implants 130 and 150 in Soboleski) were not configured for articulation in more than one direction. As explained to the Examiner’s, the implants 130 and 150 are configured with teeth that form a ratchet allowing the implants 130 and 150 to move with respect to one another only in one direction (Soboleski, paragraph 055). The Examiners provisionally agreed the implants 130 and 150 are not configured for multi-directional articulation and suggested that the claims may be allowable over Soboleski if the claims were amended to require multi-directional articulation.

Claims

Claims 1, 14, 20, 41-43, 45-48, 50-54 and 56-58 have been amended. New claims 59-62 have been added.

Independent claims 1, 14, 20 have been amended to include the requirement that the articulating surface of the inferior implant and the articulating surface of the superior implant are each configured for multiple direction articulation with the other.

Independent claims 41, 47 and 53 are means-plus-function claims, which have been amended to include the requirement that the artificial articulating surface provided on the inferior articular facet be configured for multiple direction articulation with the artificial articulating surface on the superior articular facet. Also, all references to “superior implant means” and “inferior implant means” have been amended to “superior means” and “inferior means”.

In addition, all references in dependent claims to the “superior means for providing an artificial articulating surface on a superior articular facet” have been shortened to “superior means” and all references in the dependent claims to the “inferior means for providing an artificial articulating surface on an inferior articular facet that is configured for multiple direction articulation with the artificial articulating surface on the superior articular facet” have been shortened to “inferior means” to improve the clarity of the claims.

Entry of amendments to claims 1, 14, 20, 41-43, 45-48, 50-54 and 56-58 is requested. Entry of new claims 59-62 is also requested.

Conclusion

It is submitted that this application is in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

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